

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BITTITAN, INC., a Washington corporation,

Plaintiff,

v.

JOHN DOE, an individual, and <bit-titan.com>, an internet domain name,

Defendants.

COMPLAINT

JURY TRIAL DEMANDED

I. INTRODUCTION

1. This action arises from the registration and use of <bit-titan.com> (the “Domain Name”) by a John Doe (“Doe”).

2. Plaintiff BitTitan, Inc. has used the trademark BITTITAN (the “Mark”) (Reg. Nos. 4459086, 4459088) since March 31, 2009, to provide information to customers and to sell cloud services enablement for managed service providers.

3. Plaintiff has used the domain name <BitTitan.com> since August 24, 2006.

4. Doe registered the Domain Name on September 9, 2016—almost seven years after BitTitan first started using the Mark.

5. BitTitan is the only party authorized to use the Mark.

6. Doe has no rights in the Mark.

7. BitTitan has filed this action to stop Doe’s cybersquatting and to obtain

1 compensation for the harm Doe has caused BitTitan.

2 **II. PARTIES**

3 8. BitTitan, Inc. is a Washington corporation with its principal place of business at
4 3933 Lake Washington Boulevard NE #200, Kirkland, Washington 98033.

5 9. Defendant <bit-titan.com> is an internet domain name which, according to
6 records in the WHOIS database of domain name registrations, is now registered in the name of
7 “Bitcoin Worldwide” in an unknown location.

8 10. Upon information and belief, based upon research and due diligence, the address
9 listed in the WHOIS records as the registrant of Defendant <bit-titan.com>, Nobby Beach,
10 Queensland, Australia, 4218, is associated with an entity called Privacy Protect, Inc. (“Privacy
11 Protect”). Privacy Protect offers a service by which it replaces publicly available contact
12 information in the WHOIS database with alternate contact information to conceal the domain
13 holder’s true identity.

14 11. John Doe is a person of unknown identity who registered the Domain Name in
15 violation of BitTitan’s rights.

16 12. Doe’s unlawful registration of the Domain Name was directed at BitTitan, which
17 is located in Kirkland, Washington, within this judicial district.

18 **III. JURISDICTION AND VENUE**

19 13. This Court has subject-matter jurisdiction over BitTitan’s claims pursuant to
20 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338(a) (trademark claims).

21 14. Upon information and belief, the address identified in the Domain Name
22 registration is fictitious or intended to conceal the true name and identity of the registrant.

23 15. BitTitan through due diligence was not able to find a specifically identifiable
24 person who would have been a defendant in this action, which alternatively provides the Court
25 with *in rem* jurisdiction over the Defendant domain name bit-titan.com pursuant to 15 U.S. C. §
26 1125(d)(2)(A)(i).

27 16. BitTitan is providing notice, concurrently with the filing of this complaint, to the

1 Defendants of its intent to proceed *in rem* against the Defendant domain name pursuant to 15
2 U.S.C. § 1125(d)(2)(A)(i)(II).

3 17. The Anticybersquatting Consumer Protection Act 15 U.S.C. § 1125(d)(3) and (4),
4 states that the *in rem* action, jurisdiction, and remedies created by the statute are “in addition to
5 any other civil action or remedy otherwise applicable” and “in addition to any other jurisdiction
6 that otherwise exists, whether *in rem* or *in personam*.”

7 18. Upon information and belief, *in rem* jurisdiction over Defendant <bit-titan.com>
8 is proper in this district because personal jurisdiction may not be available as to John Doe; and
9 Defendant <bit-titan.com> has sufficient contacts in this district to establish jurisdiction.

10 19. Venue is proper in this district under 28 U.S.C. § 1391(b) because of BitTitan’s
11 presence in this district and because a substantial part of the events giving rise to BitTitan’s
12 claims occurred in this district.

13 20. Joinder of Defendant John Doe and Defendant <bit-titan.com> is proper under
14 Fed. R. Civ. P. 20(a)(2) in that the claims set forth herein arise out of the same series of
15 transactions and the same questions of law are common to all of the Defendants.

16 IV. FACTS

17 21. BitTitan is the foremost provider of cloud services enablement. It delivers
18 solutions that help partners sell, onboard, and service cloud technology.

19 22. On March 31, 2009, BitTitan began using the BITTITAN Mark in connection
20 with cloud services enablement for managed service providers.

21 23. Since beginning to use the Mark, BitTitan has received a significant amount of
22 publicity and has established a significant amount of name recognition, including recent reports
23 regarding its strategic partnerships with other technology companies like DropBox and its
24 generation of significant venture capital funding. Copies of recent news reports regarding
25 BitTitan its Bloomberg Company Profile are attached as **Exhibits A, B, and C**.

26 24. Almost seven years after BitTitan began using the BITTITAN Mark, Doe
27 registered the Domain Name <bit-titan.com>.

25. On information and belief, Defendants registered the Defendant <bit-titan.com> with the intention of infringing BitTitan's Mark and with the intent of selling the Domain Name registration, thereby causing damage to BitTitan.

**V. FIRST CAUSE OF ACTION
ANTICYBERSQUATTING CONSUMER PROTECTION ACT (15 U.S.C. §
1125)(AGAINST THE DOE DEFENDANT)**

26. BitTitan realleges and incorporates by reference the allegations in paragraphs 1 through 25 above as if fully set forth herein.

27. BitTitan's Mark is well known and was distinctive before Doe's registration of the <bit-titan.com> Domain Name.

28. Doe has used the Domain Name with a bad-faith intent to profit from BitTitan's Mark in violation of 15 U.S.C. § 1125(d).

29. Doe has registered, and is trafficking in and using the <bit-titan.com> Domain Name, which is identical to and/or confusingly similar to BitTitan's Mark.

30. The registration and use by Doe of the Domain Name <bit-titan.com> is likely to cause confusion among consumers as to the source or sponsorship of BitTitan's services and/or products.

31. BitTitan, despite its due diligence, has been unable to find a specifically identifiable person who would have been a defendant in a civil action under 15 U.S.C. § 1125(d)(2)(A)(i)(I).

32. The aforesaid acts by Defendant Doe constitutes unlawful cyberpiracy in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

33. Defendant Doe has engaged in and continues to engage in these activities knowingly, willfully and deliberately, so as to justify an award of BitTitan's attorneys' fees.

34. Defendant Doe's actions justify an award of statutory damages.

35. The aforesaid acts, unless enjoined by this Court, will continue to cause BitTitan to sustain irreparable damage, loss and injury, for which BitTitan has no adequate remedy at law. Thus, pursuant to 15 U.S.C. § 1125(d)(2)(D)(i), BitTitan is entitled to an order transferring the

1 Defendant bit-titan.com domain name registration to BitTitan.

2 **VI. SECOND CAUSE OF ACTION/IN REM ANTICYBERSQUATTING**
3 **CONSUMER PROTECTION ACT (15 U.S.C. § 1125)**

4 36. BitTitan realleges and incorporates by reference the allegations in paragraphs 1
5 through 35 above as if fully set forth herein.

6 37. BitTitan's Mark is well known and was distinctive before the registration of
7 Defendant <bit-titan.com>.

8 38. Defendant <bit-titan.com> has been used with a bad-faith intent to profit from
9 BitTitan's Mark in violation of 15 U.S.C. § 1125(d).

10 39. Doe has registered, and is trafficking in and using Defendant <bit-titan.com>,
11 which is identical to and/or confusingly similar to BitTitan's Mark.

12 40. The registration and use by Doe of Defendant <bit-titan.com> is likely to cause
13 confusion among consumers as to the source or sponsorship of BitTitan's services and/or
14 products.

15 41. BitTitan, despite its due diligence, has been unable to find a specifically
16 identifiable person who would have been a defendant in a civil action under 15 U.S.C. §
17 1125(d)(2)(A)(i)(I).

18 42. The aforesaid acts by Defendant <bit-titan.com> constitutes unlawful cyberpiracy
19 in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

20 **VI. PRAYER FOR RELIEF**

21 WHEREFORE, BitTitan requests entry of a judgment and order in its favor and against
22 Doe and on all claims as follows:

23 1. Restraining Doe from selling or otherwise transferring the Domain Name <bit-
24 titan.com> to any third party other than BitTitan;

25 2. Restraining Doe from inducing, encouraging, instigating, aiding, abetting, or
26 contributing to any of the above-mentioned acts;

27 3. Ordering that the Domain Name <bit-titan.com> be transferred to BitTitan and

1 that Doe take all necessary actions to effectuate the transfer within ten days of entry of such an
2 order (as to both Doe and <bit-titan.com>);

3 4. For an award of damages to BitTitan in an amount to be determined;

4 5. For an award to BitTitan of statutory damages pursuant to 15 U.S.C. § 1117(d);

5 6. For an award of BitTitan's reasonable attorneys' fees and costs of suit as may be
6 available under applicable law; and

7 7. That BitTitan be awarded such other and further relief as the Court may deem
8 equitable and proper.

9 DATED: January 11, 2017

Respectfully Submitted,

10 **FOCAL PLLC**

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff BitTitan, Inc.
demands trial by jury in this action of all issues so triable.

DATED: January 11, 2017

Respectfully Submitted,

By: s/ Venkat Balasubramani
Venkat Balasubramani, WSBA #28269